

ZONING BOARD OF APPEALS

Tuesday, November 18, 2008
6:30 P.M. – City Council Chambers
Rockford City Hall, 425 East State Street

Present:

ZBA Members: Alicia DiBenedetto
Aaron Magdziarz
Dan Roszkowski
Scott Sanders
Craig Sockwell

Absent: Julio Salgado

Staff: Todd Cagnoni – Deputy Director, Community & Economic
Development, Construction & Development Services
Sandra Hawthorne – Administrative Assistant
Kerry Partridge – City Attorney
Jon Hollander – City Engineer, Public Works
Chief Frank Schmitt - Fire Prevention Division

Others: Alderman Frank Beach
Kathy Berg, Stenographer
Applicants and Interested Parties

The meeting started at 7:45 P.M. A **MOTION** was made by Aaron Magdziarz to **APPROVE** the minutes of the October 21, 2008 meeting as submitted. The Motion was **SECONDED** by Alicia DiBenedetto and **CARRIED** by a vote of 5-0, with Julio Salgado absent.

043-08 Applicant Ward 3	<u>1405-1407 North Main Street</u> City of Rockford Department of Law Revocation of Special Use Permit #102-05 for indoor retail liquor sales by the drink in conjunction with a full service restaurant in a C-2, Commercial Community District Laid Over from August, September and October meetings
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The Applicant has requested this item be Laid Over to the December 16th meeting.

A **MOTION** was made by Alicia DiBenedetto to **LAY OVER** the Revocation of Special Use Permit #102-05 for indoor retail liquor sales by the drink in conjunction with a full service restaurant in a C-2, Commercial Community District at 1405-1407 North Main Street. The Motion was **SECONDED** by Scott Sanders and **CARRIED** by a vote of 5-0.

048-08 **3326, 3328 & 3336 Kishwaukee Street**
Applicant Robert Lowe
Ward 6 **Modification of Special Use Permit** for an expansion of used car sales
 Variation to reduce the perimeter landscape strip from 10 feet to 7 feet in a C-3,
 Commercial General District
 Laid Over from October meeting

Prior to the meeting, a request was made to Lay Over this item to the December 16th meeting.

A **MOTION** was made by Alicia DiBenedetto to **LAY OVER** the Modification of Special Use Permit for an expansion of used car sales; and to **LAY OVER** the Variation to reduce the perimeter landscape strip from ten (10) feet to seven (7) feet in a C-3, Commercial General District at 3326, 3328 and 3336 Kishwaukee Street. The Motion was **SECONDED** by Scott Sanders and **CARRIED** by a vote of 5-0.

051-08 **16XX, 1601, 1609, 1613, 1619, 1621 Kishwaukee Street**
 646 16th Avenue
Applicant Todd Kudlacik
Ward 5 **Zoning Map Amendment** from C-1, Limited Office, C-3 General Commercial, and R-2,
 Two-family Residential Districts to C-2, Commercial Community Zoning District
 Laid Over from October meeting

A request for Lay Over has been received from the applicant.

A **MOTION** was made by Alicia DiBenedetto to **LAY OVER** the Zoning Map Amendment from C-1, Limited Office, C-3, General Commercial, and R-2, Two-family Residential Districts to C-2, Commercial Community Zoning District at 16XX, 1601, 1609, 1613, 1619, 1621 Kishwaukee Street and 646 16th Avenue. The Motion was **SECONDED** by Scott Sanders and **CARRIED** by a vote of 5-0.

044-08 **3630 North Rockton Avenue**
Applicant GTR Realty Advisors LLC
Ward 12 **Zoning Map Amendment** from R-1, Single-family Residential District to C-2, Limited
 Commercial District for Parcel A and B
 Special Use Permit for a drug store with a drive-through window for Parcel B in a C-2,
 Limited Commercial District

This item has been Withdrawn by the Applicant.

053-08 **5051 East State Street**
Applicant Jimmy P's LLC
Ward 10 **Variation** to reduce the required parking from 247 parking spaces to 173 parking spaces
 in a C-2, Limited Commercial Zoning District

The subject property is 800 feet west of the East State and New Towne Drive intersection and is the former Ryan's Steakhouse. Jim Pantazelos, Applicant, was present. Mr. Roszkowski asked the Applicant why he felt he did not need the required parking spaces. Mr. Pantazelos stated he "does and he doesn't". He does not feel there will be that many single people driving vehicles to the establishment, which would require 247 parking spaces. Mr. Roszkowski then asked the Applicant what the seating capacity would be. Mr. Pantazelos responded it would be about 150 people. Mr. Cagnoni clarified that according to the plan submitted by the Applicant, 250 seats are proposed if the bar, restaurant, and all seating areas are included. He also explained there is a significant parking lot behind OTB that could be utilized should they obtain a parking agreement.

Staff Recommendation was for Approval with 3 conditions. No Objectors were present.

Alderman Frank Beach was present. He wished to ask the Board what would happen to the actual parking spaces that are not going to be used if this reduction were granted. Todd clarified that there is an area west of the entrance where a patio could be constructed if the Applicant's separate application for liquor sales is approved. There is also a requirement of ROW to be dedicated, a sidewalk and third lane to be constructed on State Street, and there will be additional landscaping as well.

Ms. DiBenedetto felt that because there were two entities sharing the same parking lot, she was not entirely comfortable with reducing parking without further examination. Mr. Roszkowski felt if customers were unable to find a parking space on the property, they would simply go elsewhere rather than to this establishment. Mr. Cagnoni stated if the Board felt a safeguard were required, they could add a condition that there be parking in the adjacent area to the south if staff determines adequate parking is not met, or that a shuttle service be provided if required. The Board determined not to add any further conditions.

A **MOTION** was made by Scott Sanders to **APPROVE** the Variation to reduce the required parking from 247 parking spaces to 173 parking spaces in a C-2, Limited Commercial Zoning District at 5051 East State Street. The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 5-0.

Approval is subject to the following conditions:

1. Meet all Building and Fire Codes.
2. Submittal of Building Permit for Staff review and approval.
3. Submittal of detailed landscape plan to include the type of species to be planted for Staff's review and approval.

ZBA 053-08
Findings of Fact for a Variation
To reduce the Required Parking from 247 Parking Spaces
To 173 Parking Spaces in a C-2, Limited Commercial Zoning District at
5051 East State Street

Approval of this Variation is based upon the following findings:

1. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
2. The conditions upon which a petition for this Variation are based are unique to the property for which the Variation is sought and are not applicable, generally, to other property within the same zoning classification.
3. The purpose of this Variation is not based exclusively upon a desire to increase the value or income potential of the property.
4. The alleged difficulty or hardship is caused by this Ordinance and has not been created by any persons presently having an interest in the property or by any predecessor in title.
5. The granting of this Variation will not be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.
6. The proposed Variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair the property values within the neighborhood.
7. The proposed Variation does comply with the spirit and intent of restrictions imposed by this Ordinance.

054-08 **371 Blackhawk Park Avenue**
Applicant Warren Strom
Ward 5 **Special Use Permit** for an auto salvage or junk yard in an I-2, General Industrial Zoning District

A request has been received by the Applicant to Lay Over this item to the December 16th meeting.

A **MOTION** was made by Alicia DiBenedetto to **LAY OVER** the Special Use Permit for an auto salvage or junk yard in an I-2, General Industrial Zoning District at 371 Blackhawk Park Avenue. The Motion was **SECONDED** by Scott Sanders and **CARRIED** by a vote of 5-0.

055-08 **310 Arnold Avenue**
Applicant Reformers Unanimous International /Stephen Schupp
Ward 14 **Special Use Permit** for a group home for adjustment consisting of a private education and counseling and worship center with dormitory in an R-3, Multi-family Residential District

This property is located on the east side of Arnold Avenue, approximately 95 feet north of Elaine Drive and is currently a vacant building. Stephen Schupp, Applicant, reviewed the request. He explained that their operation at this location will be a relocation of the School Street group home for women, with the same atmosphere, same requirements, and same percentage of students. He explained the surrounding property at the School Street location has been purchased by a developer who also wishes to purchase the School Street establishment.

Staff Recommendation was for Approval with 8 conditions. Three letters of support were received from adjacent property owners; one from Attorney Steve Zimmerman representing Lino's Restaurant, 5611 & 5643 East State Street; East Wind Business Center, 129 S. Phelps Avenue; and Holcomb State Bank, 230 Arnold Avenue, and two letters from Roger L. Johnson, also representing the East Wind Business Complex. A letter was also submitted from Alderman Bill Timm expressing his support of this project.

No Objectors were present.

During discussion, Mr. Cagnoni stated Staff would like to modify condition 8 to remove the wording pertaining to the property being sold in the future. He explained that under a Special Use Permit this could not be enforced since the permit goes with the land and not the user. The Board also wished to add condition 9, that the maximum number of residents be limited to 75.

A **MOTION** was made by Scott Sanders to **APPROVE** the Special Use Permit for a group home for adjustment consisting of a private education and counseling and worship center with dormitory in an R-3, Multi-family Residential District with modified conditions. The Motion was **SECONDED** by Aaron Magdziarz and **CARRIED** by a vote of 5-0.

Approval is subject to the following conditions:

1. Meeting all applicable building and fire codes.
2. Installation of a six (6) foot high fence reducing to a four (4) foot high fence within the front yard setback off of Arnold Avenue, fencing along the southern portion of the site must be sight-obstructing and meet the fencing regulations.
3. Registered sex offenders shall not be permitted to reside on the property. The property owners shall screen residents to ensure compliance with this conditions.
4. Individuals with a record of violent criminal action shall not be permitted on the property. Violent criminal actions shall include but not be limited to any form of assault, abuse, kidnapping, unlawful restraint, arson, robbery, battery, homicide and/or conspiracy to commit any of the heretofore listed offenses. The property owners shall screen residents to ensure compliance with this condition.
5. Onsite staff supervision of the residents shall be provided 24 hours per day, seven days per week.

6. Facility residents shall be women only, as indicated on attached narrative.
7. At the City's request, the property owners shall provide documentation of the criminal offenses of the individuals residing in the facility, who cause the facility to be classified as a "group home for adjustment" shall be limited to no more than 1/6th of the total residential population at any one time.
8. Any change in use, or discontinuance of use will require staff review and approval which may require a Special Use Permit.
9. Maximum residents to be set at 75.

ZBA 055-08
Findings of Fact for a Special Use Permit
For a Group Home for Adjustment
Consisting of a Private Education and Counseling and Worship Center
With Dormitory in an R-3, Multi-family Residential District at
310 Arnold Avenue

Approval of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall, in all other respects, conform to the applicable regulations of the R-3 Zoning District and conditions of approval.

056-08 7310 Walton Street
Applicant Sure Light Sign Company
Ward 1 **Variation** to increase the allowable number of business identification wall signs from two (2) to three (3) in a C-3, General Commercial District

The subject property is located 300 feet east of the Buckley Drive and East State Street intersection and is the proposed Aspen Dental Management Inc. Amy Johnson, Chandler Signs, reviewed the request for Variation. Ms. Johnson explained that it is the Applicants feeling that the sign on the building cannot be seen by traffic that is coming up Buckley Drive, due to the slope of the land. She also stated traffic coming from U.S. 20, cannot see the sign, as there is no visibility from the intersection. The entrance to this location is at the rear of the building. She explained the dumpster along the back side of Texas Roadhouse prohibits visibility of signage from that area. It is the Applicant's concern that only 16 feet of that area of the building is visible.

Ms. Johnson clarified that the sign on the western exposure is proposed to be 30" tall rather than 39" tall in order to fit the space. Mr. Cagnoni clarified the sign code, explaining two wall signs are allowed. The Ordinance does not give flexibility to allow placement of the signs on the building. Scott Sanders asked why there was concern of visibility from Buckley, since it was only a connector street. Ms. Johnson

explained that Buckley was actually the entrance to the business, although the entrance to the building faces State Street.

Staff Recommendation was for Denial.

Mr. Sanders felt that the location of the building and visibility with other businesses warranted the third sign.

A **MOTION** was made by Scott Sanders to **APPROVE** the Variation to increase the allowable number of business identification wall signs from two (2) to three (3) in a C-3, General Commercial District at 7310 Walton Street. The Motion was **SECONDED** by Aaron Magdziarz and **CARRIED** by a vote of 5-0. Approval is subject to the following conditions:

1. The sign on the western exposure shall be limited to 30 inches in height.

ZBA 056-08
Findings of Fact for a Variation
To Increase the Allowable Number of Business Identification Wall Signs
From Two to Three in a C-3, General Commercial Zoning District at
7310 Walton Street, #102

Approval of this Variation is based upon the following findings:

1. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
2. The conditions upon which a petition for this Variation are based are unique to the property for which the Variation is sought and are not applicable, generally, to other property within the same zoning classification.
3. The purpose of this Variation is not based exclusively upon a desire to increase the value or income potential of the property.
4. The alleged difficulty or hardship is caused by this Ordinance and has not been created by any persons presently having an interest in the property or by any predecessor in title.
5. The granting of this Variation will not be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.
6. The proposed Variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair the property values within the neighborhood.
7. The proposed Variation does comply with the spirit and intent of restrictions imposed by this Ordinance.

057-08 Applicant Ward 10	<u>1601 North Alpine Road</u> Greg Orput Variation to increase the sign height from the maximum allowable height of 20 feet to 25 feet within a shopping center in a C-3, General Commercial District
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The subject property is located at the northeast corner of Highcrest and North Alpine Road and is the Edgebrook Shopping Center. Mike Boehm, representing the Applicant, reviewed the request for

Variation. The Applicant is in the process of improving signage for this shopping center. He stated there are approximately 50 tenants consisting of office and retail use. The existing free-standing sign is slightly over 30 feet tall, and the Applicant is asking to go to 25 feet in height to improve the corner and allow them to continue upgrades to this shopping center. They are minimizing the outdoor signage facing west. The sign in front of the Mobile gas station will be repainted, with new facing. This sign height will remain as is. Mr. Boehm explained it is their intent to keep the landscaping at that corner to maintain the 'forest city' aspect of Rockford. Mr. Cagnoni stated all revised signage was shown in the Staff Recommendation packet, and all but the requested Variation were in compliance with sign regulations. Discussion was held on moving the sign by the Mobil Gas station - Mr. Boehm stated this is not under consideration at this time.

Staff Recommendation was for Approval with 2 conditions. No Objectors were present.

A **MOTION** was made by Craig Sockwell to **APPROVE** the Variation to increase the sign height from the maximum allowable height of twenty (20) feet to twenty-five (25) feet within a shopping center in a C-3, General Commercial District at 1601 North Alpine Road. The Motion was **SECONDED** by Scott Sanders and **CARRIED** by a vote of 5-0.

Approval is subject to the following conditions:

1. Submittal of a permanent sign permit and to be in accordance with Exhibit E.
2. The spaces between sign may not have additional signage

ZBA 057-08
Findings of Fact for a Variation
To Increase the Sign Height From the Maximum Allowable Height
Of 20 Feet to 25 Feet Within a Shopping Center
In a C-3, General Commercial District at
1601 North Alpine Road

Approval of this Variation is based upon the following findings:

1. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
2. The conditions upon which a petition for this Variation are based are unique to the property for which the Variation is sought and are not applicable, generally, to other property within the same zoning classification.
3. The purpose of this Variation is not based exclusively upon a desire to increase the value or income potential of the property.
4. The alleged difficulty or hardship is caused by this Ordinance and has not been created by any persons presently having an interest in the property or by any predecessor in title.
5. The granting of this Variation will not be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.
6. The proposed Variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair the property values within the neighborhood.
7. The proposed Variation does comply with the spirit and intent of restrictions imposed by this Ordinance.

058-08

Applicant
Ward 5

2XX Quaker Road & 217 Peoples Avenue

Jason Norton

Modification of Special Use Permit #066-90 for expansion of equipment storage and recycling of salvage materials area in an I-2, General Industrial District

This property is a corner lot bounded by Harrison Avenue, Seminary Street and Peoples Avenue and is approximately 13.66 acres. A Special Use Permit was approved in 1990 to allow a junk yard for a 21 acre parcel, of which the subject property is a portion. Jason Norton, Applicant, reviewed his request for Modification. It is his intent to store heavy equipment and recycling salvage materials. He explained the previous owner used this property as a landfill and the Applicant has cleaned this up. He is agreeable to Staff conditions.

Staff Recommendation was for Approval subject to 4 conditions. No Objectors were present. Dan Roszkowski felt this would be an improvement with fencing and landscaping.

A **MOTION** was made by Craig Sockwell to **APPROVE** the Modification of Special Use Permit #066-90 for expansion of equipment storage and recycling of salvage materials area in an I-2, General Industrial District at 2XX Quaker Road and 217 Peoples Avenue. The Motion was **SECONDED** by Aaron Magdziarz and **CARRIED** by a vote of 5-0.

Approval is subject to the following conditions:

1. Submittal of a final fencing and landscaping plan to Staff for review and approval.
2. Must get EPA approval and follow all applicable guidelines prior to expansion of use.
3. No stacking above the fencing height.
4. Outside storage is limited to storage area as designated on Exhibit D.

ZBA 057-08

Findings of Fact for a Variation

**To Increase the Sign Height From the Maximum Allowable Height
Of 20 Feet to 25 Feet Within a Shopping Center
In a C-3, General Commercial District at
1601 North Alpine Road**

Approval of this Variation is based upon the following findings:

1. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
2. The conditions upon which a petition for this Variation are based are unique to the property for which the Variation is sought and are not applicable, generally, to other property within the same zoning classification.
3. The purpose of this Variation is not based exclusively upon a desire to increase the value or income potential of the property.
4. The alleged difficulty or hardship is caused by this Ordinance and has not been created by any persons presently having an interest in the property or by any predecessor in title.
5. The granting of this Variation will not be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.

6. The proposed Variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair the property values within the neighborhood.
7. The proposed Variation does comply with the spirit and intent of restrictions imposed by this Ordinance.

059-08 **2902 McFarland Road**
Applicant Robert Kleckner
Ward 1 **Variation** to increase the maximum allowable wall signs above the ground floor from two to three in a C-2 Limited Commercial District

The subject property is located on the west side of McFarland Road, between Kleckner and Spring Creek and is approximately 3.8 acres in size. Robert Kleckner, Applicant, reviewed his request for Variation. Reno Zahm is a law firm that leases the 4th floor of the subject building. Rockford Spinal Center also a tenant. Mr. Kleckner stated he has 4 tenants at this time. The building is approximately 75 feet tall.

Staff Recommendation was for Approval with 3 conditions. No Objectors.

The Board felt the request was reasonable; however, wished to add a condition that the sign for Rockford Spinal Center not exceed the width of 5 windows from each outer edge of the building to create a more balanced impact with the Reno Zahm sign. It was also requested that the height of the letters be in proportion to this length.

A **MOTION** was made by Scott Sanders to **APPROVE** the Variation to increase the maximum allowable wall signs above the ground floor from two to three in a C-2 Limited Commercial District at 2902 McFarland Road with added condition 4. The Motion was **SECONDED** by Aaron Magdziarz and **CARRIED** by a vote of 5-0.

Approval is subject to the following conditions:

1. Compliance with all Building and Fire codes.
2. Each sign above the ground level shall be limited to one side elevation of the building.
3. Additional wall signage shall be subject to the City of Rockford sign regulations.
4. The sign for Rockford Spinal Center shall be no not exceed the width of 5 windows from outer edge to outer edge of the building, and shall be scaled in height proportionately per Staff approval.

ZBA 059-08
Findings of Fact for a Variation
To Increase the maximum Allowable Wall Signs
Located Above the Ground Floor of the Structure for Business Identification
From Two to Three in a C-2, Limited Commercial District at
2902 McFarland Road

Approval of this Variation is based upon the following findings:

1. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out. The property is located on the corner of Springcreek Road and set back off of Perryville road.

2. The conditions upon which a petition for this Variation are based are unique to the property for which the Variation is sought and are not applicable, generally, to other property within the same zoning classification.
3. The purpose of this Variation is not based exclusively upon a desire to increase the value or income potential of the property.
4. The alleged difficulty or hardship is caused by this Ordinance and has not been created by any persons presently having an interest in the property or by any predecessor in title.
5. The granting of this Variation will not be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.
6. The proposed Variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair the property values within the neighborhood.
7. The proposed Variation does comply with the spirit and intent of restrictions imposed by this Ordinance.

Other Business

The 2009 Zoning Board of Appeals schedule was presented to the Board for approval. The Board voted to approve the schedule as presented.

A **MOTION** was made by Scott Sanders to **APPROVE** the 2009 Zoning Board of Appeals schedule as presented. The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 5-0. Schedule is approved as follows:

**ZONING BOARD OF APPEALS
2009 SCHEDULE of PUBLIC HEARINGS**

FILING DEADLINE: (Thursday, 5:00 P.M.)	MEETING DATE: (Third Tuesday of the Month)
December 18, 2008	January 21, 2009-Wed
January 15, 2009	February 18, 2009-Wed
February 12, 2009	March 17, 2009
March 19, 2009	April 21, 2009
April 16, 2009	May 19, 2009
May 14, 2009	June 16, 2009
June 18, 2009	July 21, 2009
July 16, 2009	August 18, 2009
August 13, 2009	September 15, 2009
September 17, 2009	October 20, 2009
October 15, 2009	November 17, 2009
November 12, 2009	December 15, 2009
December 17, 2009	January 20, 2010-Wed

With no further business to come before the Board, the meeting was adjourned at 8:53.

Respectfully submitted,
Sandra A. Hawthorne
Administrative Assistant
Zoning Board of Appeals